

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 6089**

**BILL NUMBER:** HB 1019

**NOTE PREPARED:** Apr 28, 2007

**BILL AMENDED:** Apr 28, 2007

**SUBJECT:** Criminal Law Matters.

**FIRST AUTHOR:** Rep. Duncan

**FIRST SPONSOR:** Sen. Nugent

**BILL STATUS:** As Passed Senate

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
**FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** The bill has the following provisions.

*Interference with Custody:* This bill provides that a person who commits interference with custody must intend to deprive another person of custody rights. The bill eliminates the condition that, for an individual to commit the offense of interference with custody by failing to return a child to Indiana, the individual must have taken the child outside Indiana. The bill also eliminates the condition under which an individual who takes or detains a child with intent to deprive another of custody or parenting time does not commit the offense of interference with custody unless the individual conceals the child. It provides that an individual who conceals a child with the intent to deprive another of custody or parenting time commits interference with custody even if the individual did not take or detain the child. It also provides a defense if the accused person: (1) was threatened; or (2) reasonably believed the child was threatened.

*Battery:* The bill also increases the penalty for battery to a Class D felony for an offense against a family or household member if: (1) the person who committed the offense was at least 18 years of age; and (2) the offense occurred while in the physical presence of a child less than 16 years of age who might be able to see or hear the offense. The bill also increases the penalty for battery to a Class C felony if it results in bodily injury to a pregnant woman and the person knew the woman was pregnant.

**Effective Date:** July 1, 2007.

**Explanation of State Expenditures:** *Interference with Custody:* Under the bill, the number of persons convicted of interference with custody could increase resulting in possible increases in expenditures and revenues for the state and counties. Actual increases would be dependent on the number of convictions,

lengths of sentence, and fines assessed. However, between FY 1996 and FY 2004, there were no commitments under this offense.

*Background Information:* Under current law, a person who knowingly or intentionally: (a) removes another person who is less than 18 years of age to a place outside Indiana and violates a child custody order of a court, or (b) removes another person who is less than 18 years of age to a place outside Indiana and violates a child custody order of a court and fails to return the other person to Indiana commits interference with custody, a Class D felony. The offense is a C felony if the person is less than 14 years of age. It is a Class B felony if the offense is committed while armed with a deadly weapon or results in serious bodily injury to another person.

This bill would modify current statute and expand the offense of interference with custody. As proposed, interference with custody would include a person knowingly or intentionally violating a child custody order of a court by either removing or failing to return a person who is less than 18 years of age to Indiana.

Currently, a person who with the intent to deprive another person of custody or parenting time rights: (a) knowingly or intentionally takes and conceals, or (b) knowingly or intentionally detains and conceals, a person who is less than 18 years of age commits interference with custody, commits a Class C misdemeanor. Furthermore, the offense is a Class B misdemeanor if the offense is in violation of a court order. The bill modifies this language and deletes the requirement of concealment in offenses listed under both (a) and (b), above. It also adds the following language, (c) "knowingly or intentionally conceals" a person who is less than 18 years of age commits interference with custody.

Under the bill, the number of persons convicted of interference with custody could increase resulting in possible increases in expenditures and revenue for the state and counties (see *Penalty Provision* sections). Actual increases would be dependent on the number of convictions, length of sentences, and fines assessed.

*Battery:* The bill increases the penalty for battery to a Class D felony from a Class B misdemeanor for an offense against a family or household member if: (1) the person who committed the offense was at least 18 years of age; and (2) the offense occurred while in the physical presence of a child less than 16 years of age who might be able to see or hear the offense. The bill also increases the penalty for battery to a Class C felony from a Class B misdemeanor if it results in bodily injury to a pregnant woman and the person knew the woman was pregnant. State expenditures could increase if an offender is incarcerated in a state prison rather than in a local jail (see *Penalty Provision* sections).

*Penalty Provision:* A Class B felony is punishable by a prison term ranging from 6 to 20 years depending upon mitigating and aggravating circumstances. The average length of stay in Department of Correction (DOC) facilities for all Class B felony offenders is approximately 3.7 years.

A Class C felony is punishable by a prison term ranging from 2 to 8 years depending upon mitigating and aggravating circumstances. The average length of stay in a Department of Correction (DOC) facility for all Class C felony offenders is approximately 2 years.

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. The average length of stay in a DOC facility for all Class D felony offenders is approximately ten months.

Assuming offenders can be housed in existing facilities with no additional staff, the average cost for medical

care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The average expenditure to house an adult offender was \$22,734 in FY 2006. (This does not include the cost of new construction.) The estimated average cost of housing a juvenile in a state juvenile facility was \$63,139.

**Explanation of State Revenues:** *Penalty Provision:* If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The maximum fine for a: Class B, C, or D felony is \$10,000; Class B misdemeanor is \$1,000, and Class C misdemeanor is \$500. Any additional revenues would likely be small.

Increasing the penalty for battery for certain offenses could result in additional revenue to the Common School Fund if a larger criminal fine is assessed by the sentencing court. Court fees for both misdemeanors and felonies are \$120.

**Explanation of Local Expenditures:** *Penalty Provision-*

*Interference with Custody:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. Any additional expenditures would likely be small.

*Battery:* If an offender is sentenced to state prison rather than to a county jail, the costs to the county may be reduced. A Class B misdemeanor is punishable by up to 180 days in jail. The average daily cost to incarcerate a prisoner in a county jail is roughly \$44.

**Explanation of Local Revenues:** *Penalty Provision:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, the amounts would likely be small.

**State Agencies Affected:** Department of Correction.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:** Department of Correction.

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